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SUMMARY RECORD OF THE 13th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 9 February 1993, at 3 p.m.

Chairman: Mr. ENNACEUR (Tunisia)
later: Mr. GARRETON (Chile)

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The meeting was called to order at 3.15 p.m.

SITUATION OF HUMAN RIGHTS IN THE TERRITORY OF THE FORMER YUGOSLAVIA (agenda item 27) (E/CN.4/1993/84)

1. Mr. MAZOWIECKI (Special Rapporteur for the former Yugoslavia) said that, at its first special session in August 1992, the Commission on Human Rights had had the opportunity to show its determination to commit itself to the international efforts aimed at putting an end to the tragic and unacceptable human rights situation in the territories of the former Yugoslavia, particularly Bosnia and Herzegovina. In fact, the practice of ethnic cleansing had already reached intolerable and alarming proportions, bringing suffering to hundreds of thousands of people. From the outset, it had been evident that the aim of that cruel war was to establish, by every possible means, homogenous ethnic areas, on the pretext that it was impossible for Muslims, Serbs and Croats to live together.

2. It was currently estimated that a third of the inhabitants of Bosnia and Herzegovina had been forced to abandon their homes, some 700,000 of them having fled to other countries while more than 810,000 were displaced in their own country. Unfortunately, that process had not ceased and, in the second half of 1992, the number of refugees had doubled as compared with the first stage of the conflict. For example, it had been reported that the Muslims still living in Prijedor were about to leave the town, and that the Muslims and Croats of Banja Luka were in a similar situation. More recent events, such as the destruction of the mosque or the flight of Muslims from Prozor as a result of hostilities between the Muslim and Croat forces, indicated that the policy of ethnic cleansing was being relentlessly pursued and was affecting ever-widening circles of the population.

3. Another continuing tragedy was the fate of people trapped in towns and villages surrounded by military forces. Yet again, the promises made on many occasions by all the parties to the conflict had not been kept, and only a small number of camps and prisons had been closed. Irrefutable proof had been received that the conditions in which most prisoners were being detained were in flagrant violation of all the standards of international law. Most of those prisoners should never have been held, since it was well-known that the civilian population, including women and children, accounted for almost all the persons in the camps and prisons. It was still quite impossible to arrive at a precise figure for the number of camps and detainees.

4. The horrendous reports of the rape of women and children had aroused particular indignation in international public opinion. He had himself been profoundly shocked by the scale of that extremely cruel and degrading practice, which affected the most vulnerable elements of society. In the annex to his report, he had submitted the results of the inquiry carried out by an international group of experts which he had appointed to investigate the incidents, which were both widespread and criminal.

5. Although, as he had said previously, the conflict in Bosnia and Herzegovina was not a religious war, the desecration of places and objects holy to all the various faiths was a daily occurrence and was taking place on

a large scale. Likewise, precious monuments and objects belonging to the cultural heritage had been subjected to numerous attacks, thus leading to the destruction of national identity.

6. The tragic situation in Sarajevo was well-known. Despite frequent visits by politicians and international missions, the inhabitants of Sarajevo were dying not only from the effects of the bombardment, but also from exhaustion, sickness and cold. The same fate was shared by many inhabitants of towns and villages in the country which were in a similar situation. Humanitarian aid did not always reach the entire population, and attacks against humanitarian convoys and hospitals were continuing. The emblem of the Red Cross was not respected at all.

7. European and world public opinion was becoming more and more aware of the circumstances of the conflict in Bosnia and Herzegovina. The crimes committed there, and often the names of their perpetrators, were gradually coming to light. It was becoming increasingly clear that the Serb leaders in Bosnia and Herzegovina were mainly responsible for the policy of ethnic cleansing, of which the Muslims were the main victims. It was difficult to imagine that such a policy could have been possible without the active support of the Government of Serbia.

8. It was equally clear that the Serb population was also a victim of the war: many innocent and moderate Serbs had been persecuted by Serb extremists. The continuation of the conflict led to reprisals, by both sides, and violations of human rights and war crimes were becoming generalized behaviour. He took the opportunity to reiterate that international humanitarian law and human rights must be respected unconditionally by all, and that any person guilty of violating those rights must be brought to justice.

9. He paid tribute to the courage and devotion of the officers and men of the United Nations Protective Force (UNPROFOR), the staff of the Office of the High Commissioner for Refugees (UNHCR), the delegates of the International Committee of the Red Cross (ICRC) and the other relief organizations which had managed to mitigate the cruel effects of the war. The risks to anyone involved in UNPROFOR or in humanitarian activities were considerable. The press was particularly exposed, and its role in uncovering and preventing crimes should not be underestimated.

10. The Commission on Human Rights had unambiguously condemned the crimes perpetrated in the name of ethnic cleansing, as had the Security Council and the General Assembly. The representatives of the parties to the conflict had declared at the London Conference that such practices must cease immediately and that measures must be taken to remedy the damage caused: that declaration had, however, remained a dead letter.

11. International public opinion was demanding ever more urgently that such crimes should cease. Every day, the Centre for Human Rights received dozens of letters and appeals addressed to himself and calling for an end to the spiral of violence. The question to be answered was what could be done in such a situation. In that connection, his initial conclusions remained unchanged and the following action should be taken: all persons held in camps and prisons should be released; security zones should be established forthwith

in Bosnia and Herzegovina; the right to return of refugees and displaced persons should be guaranteed; access routes for humanitarian assistance should be opened up immediately; and measures to prevent disinformation and incitement to hatred among the populations should be adopted. Not one of those requirements had so far been fully met.

12. The experience he had gained in carrying out his mandate had led him to the conclusion that the United Nations and the resources at its disposal were unable to meet the challenges arising from the conflict. For example, six months had passed and it had still not been possible to establish the concrete bases for implementing the project to monitor human rights in the field, which he had proposed and which had been favourably received by the General Assembly.

13. Serious violations of human rights were not confined to Bosnia and Herzegovina, but were occurring in other parts of the former Yugoslavia. However, the problems in those areas were of a different nature and scale. It should be noted that the war in Bosnia and Herzegovina, and the resumption of fighting in Croatia, had a particularly baleful effect on the observance of human rights throughout the region.

14. In his latest report, he had provided information on the situation in the various regions of the Federal Republic of Yugoslavia (Serbia and Montenegro). The situation in Kosovo gave particular cause for concern, the number of incidents involving the use of weapons, particularly, by the police, having risen alarmingly. Moreover, the policy of discrimination against the ethnic Albanian population was continuing, and the tense situation could well explode into armed conflict. There was a serious risk of provocation.

15. His report also mentioned incidents against the Muslim populations of the Sandzak region, and particularly on the frontier of Bosnia and Herzegovina. At the same time, it would seem that, in the town of Novi Pazar and in other places in the region, the situation had somewhat improved. The situation in Vojvodina was still precarious also. In many towns, it remained tense because of the problems resulting from immigration and the fact that many civilians were armed.

16. International observers had expressed many reservations regarding the fairness of the parliamentary elections held in Serbia and Montenegro in December 1992. He had also received much evidence of discrimination, following the elections, against political opponents in the mass media, the universities and cultural institutions. As a result, freedom of expression was being more and more restricted and the democratic opposition's opportunities for action were seriously hampered. In that connection, it must be stressed that the democratization in public life in Serbia was a key element in solving the Yugoslav conflict.

17. In his latest report, he had commented on the situation of the Serb minority in the Republic of Croatia, another cause for concern. In Croatia also, nationalist tendencies were to be noted and the State kept the media under strict control. The report also highlighted the precarious status of respect for human rights in the zones protected by the United Nations. The

situation had not changed, and the necessary conditions for the return of the refugees had not been fulfilled. It was to be feared that the resumption of hostilities would lead to a marked increase of tension in those zones.

18. In the report, which would be distributed shortly, he also outlined the human rights situation in the Republic of Macedonia. Like the other successor States of the former Yugoslavia, Macedonia was faced with the need to resolve basic political, social and economic problems, but the crucial issue was the relations between ethnic groups. So far, Macedonia had avoided military conflict in the process of establishing an independent State, and the foundations for the building of a democratic State based on the rule of law had been laid. That did not, however, mean that the situation of human rights was entirely satisfactory there, and economic and social problems seriously hampered their implementation.

19. The effects of the war in Bosnia and Herzegovina and the impact of the sanctions against Yugoslavia were more and more noticeable in Macedonia, where social discontent due to the conditions of daily life was tending towards ethnic unrest. However, he believed that there were real possibilities of avoiding a tragedy, since the political forces in the country seemed to have shown both their maturity and their determination to prevent any bloodshed.

20. None the less, the international community's assistance was needed. The deployment of UNPROFOR units and of observers from the Conference on Security and Cooperation in Europe (CSCE) were important preventive factors. The prerequisite for improving the human rights situation in Macedonia was its prompt admission, to membership of the United Nations. That would provide the necessary conditions for ratifying and implementing the international human rights instruments and would also make it possible to furnish effective economic aid. Any delay in recognizing Macedonia could have very serious consequences, which would spread far beyond its frontiers.

21. His report also dealt with the human rights situation in the Republic of Slovenia, which was on the way to establishing a democratic State based on the rule of law. The legal structures for effective protection of human rights had been worked out, but he had nevertheless received complaints indicating that, as in all the countries of Central and Eastern Europe, there were still many problems deriving from the former communist system that had yet to be resolved.

22. He wished to stress once again that the tragedy in Bosnia and Herzegovina was of an unprecedented magnitude, and that the solutions which must be found would decide the fate of hundreds of thousands of people affected by the war and by the serious violations of humanitarian law and human rights. The future of those populations was linked to that of all the nations of the Balkan peninsula in the same hope for peace, openness and tolerance. The solution to their problems would determine for a long time to come the role of human rights in international politics, international law and the operation of the United Nations system. The scornful disregard of the international treaties and of commitments solemnly undertaken in negotiations could have extremely dangerous consequences for the credibility of the international system. It was essential not to fall into the trap of indifference and cynicism.

23. The decisions to be taken were extremely difficult. Neither he nor the Commission wished to go beyond their mandates, but it would be an admission of impotence merely to condole with persons whose rights had been so brutally violated and express a merely verbal expression of condemnation. There must be an effective and prompt effort, with all the resources available, to ensure the release, under international supervision, of all prisoners and the closure of the detention centres; to lift the blockade of towns and regions and to open up humanitarian corridors throughout Bosnia and Herzegovina; and to establish safe havens in Bosnia and Herzegovina.

24. It might be wondered what was the point of monitoring human rights if that did not lead to the restoration of minimum respect for the lives and dignity of the populations concerned. If the international community stood idly by and simply observed the tragedy unfolding before its eyes, it would become an accomplice to the crimes.

25. Mr. SCHIFTER (United States of America) said that the horrors of Bosnia were surely among the greatest tragedies of the second half of the century, and all who were engaged in international human rights activities must ask themselves what had caused such an upsurge of bestiality, and what good had resulted from the documents produced by the Commission on Human Rights and other organs of the United Nations system or from the Helsinki Final Act.

26. There was no doubt that warfare tended to dehumanize, yet armies must, and usually did, seek to maintain discipline and to distinguish between combatants and non-combatants. In Bosnia and Herzegovina, however, the policy of ethnic cleansing had been the pretext for mass murder and mass rape recalling the excesses of the Nazi-occupying forces in the Second World War. The ethnic hatred that caused one group of people to view another group as subhuman and, consequently, as the legitimate targets of victimization, had smouldered for generations before bursting into flames. It was particularly tragic that many persons had committed atrocities against their own neighbours, with whom they had previously lived in peace.

27. Experience had shown that, in a system lacking democratic controls, an unscrupulous leadership could whip up popular passions, inciting at least some persons to commit the grossest brutalities against people whom they had not previously regarded as enemies.

28. The Special Rapporteur had accomplished an outstanding task in informing the Commission, the General Assembly and the Security Council of the frightful events in Bosnia and Herzegovina. In particular, he had defined in measured terms the implications of the expression "ethnic cleansing". All aspects of that policy were to be condemned, but attention must focus more particularly on murder, torture and rape. Bosnia would long be remembered for the Serb policy of the mass violation of women there: all decent and honourable Serbs would long have to remember, with shame, the horrible offences with which their national cause had come to be associated.

29. That a democratic system could respond positively, if challenged, on the issue of human decency had been demonstrated by Germany's recent experience, when hundreds of thousands of people had poured into the streets to express their outrage against the violent acts committed by a small group of racists.

30. As the Special Rapporteur's report showed, all the ethnic groups participating in the frightful struggle in the former Yugoslavia had committed war crimes. It was clear, however, from the evidence that the greatest number of the most egregious human rights violations had been committed by Serbs against Bosnian Muslims. All war crimes deserved condemnation but those committed in Bosnia by the Serb forces were being committed systematically and deliberately, clearly reflecting a policy decided at a high level.

31. The fact that atrocities were being committed having been established, the Commission must face the question of what it could do about Bosnia. In the first instance, it must pass a resolution expressing the international community's outrage at the mass murders and rapes and the other horrors perpetrated in the former Yugoslavia. It must, in particular, inform the many decent and honourable Serbs, the adherents of democracy in Serbia, of the world's opinion of the atrocities committed in the name of the nationalist cause espoused on their behalf. It must also ensure that the recommendations of the Special Rapporteur were fully implemented.

32. The international community must, however, do more: it must send a message to all those who might contemplate similar actions at other times and in other places that they would not go unpunished. If the precedent of Nuremburg had been forgotten, it was necessary to remind all those who needed such a reminder that war crimes were indeed punishable offences and that the offenders would ultimately be brought to justice. The United Nations system must create a mechanism for bringing war criminals to trial, and that was the message that the Commission should send to the Security Council.

33. Mr. LARSEN (Denmark), said that the European Community and its member States were utterly dismayed by the appalling human rights situation in the former Yugoslavia. The massive violations committed there were particularly abhorrent in that they were being pursued in the course of a deliberate policy of ethnic cleansing. All the reports concluded that the Serb side was responsible for the vast majority of instances in which ethnic cleansing had taken place, whether in Croatia or in Bosnia and Herzegovina. To the Serbs, ethnic cleansing was not one of the means of the war, but its very goal. The European Community unreservedly condemned ethnic cleansing by anyone. Refugees and displaced persons must be allowed to return to their homes and to live and work in peace, enjoying the same civil, political, social, cultural and economic rights as other groups.

34. The European Community placed great faith in the efforts by the co-Chairmen of the International Conference on the Former Yugoslavia. It welcomed the acceptance by all parties to the conflict of their proposal for a constitutional settlement in Bosnia and Herzegovina and urged that the Vance-Owen plan be accepted by the three parties and that the cease-fire be implemented without delay. It was to be hoped that the current discussions in the Security Council would lead to acceptance of the peace plan and to an end to hostilities.

35. The Commission should express its support for the current negotiations in view of the fact that the Vance-Owen proposal contained strong safeguards for the human rights of persons belonging to minority groups and refugees returning to the new autonomous regions in Bosnia and Herzegovina. It

established a high level of protection for all minority groups and set up international supervision with the active involvement of the United Nations and the Council of Europe.

36. The hostilities in the former Yugoslavia during the last 10 days constituted a threat to further progress. The European Community thus welcomed Security Council resolution 802 (1993) urging an end to the renewed hostilities in Croatia and calling upon all the parties involved to implement without delay all aspects of the Vance plan and to pursue negotiations in Geneva with a view to reaching agreement on the proposal for Bosnia and Herzegovina.

37. The European Community reaffirmed that all persons who perpetrated or authorized crimes against humanity or other grave breaches of international humanitarian law were individually responsible for such acts. It called upon all parties to cease violations of human rights and international humanitarian law immediately and to take appropriate steps to apprehend and punish those guilty of perpetrating or authorizing them. The international community must exert every effort to bring such persons to justice.

38. As underscored by the Ministers of the European Community in their declaration of 13 January 1993, there was an urgent need for an international criminal court to address war crimes, violations of international humanitarian law, systematic violations of human rights and crimes against humanity committed during the conflict in the former Yugoslavia. The member States of the Community were determined to support that issue in the United Nations. They welcomed the work of the Commission of Experts, established by Security Council resolution 780 (1992), to examine and analyse information submitted to it on violations of international humanitarian law, as well as information obtained through its own investigations.

39. The European Community agreed with the Special Rapporteur that the extreme nationalist ideologies underlying the conflict must be counteracted by the active promotion of human rights. It stressed the need for concerted action to further the process of democratization in the former Yugoslavia, not least in Serbia, where the conditions in which the electoral campaign leading up to the elections on 20 December 1992 had been carried out did not meet the standard requirements for free and fair elections. The international community should also assist other republics of the former Yugoslavia in their efforts to develop democratic systems that ensured full respect for human rights.

40. The Minister for Foreign Affairs of Denmark, speaking earlier on behalf of the European Community and its member States, had acknowledged the important contributions made by a number of missions to the former Yugoslavia, not least by the Special Rapporteur, in making the atrocities known to the outside world. On 1 February 1993, the Council of Foreign Ministers of the European Community had met to discuss possible measures to be taken to improve the plight of Muslim women in the former Yugoslavia. To that end, they had received a briefing from Dame Anne Warburton, who had just returned with an EC delegation from her second visit to the former Yugoslavia. They had decided to implement the recommendations in the report on assistance to Bosnian Muslim women who had been victims of rape and other atrocities by

impressing upon the parties to the conflict the imperative need to put an end to those abhorrent practices. The European Community hoped that any future mission would endeavour to inspect the locations associated with the practice of rape.

41. The European Community was following closely developments in the Serbian provinces of Kosovo, Sandzak and Vojvodina and supported efforts to increase international presence there as necessary. There would be no satisfactory solution to the continuing crisis in Kosovo unless the ethnic Albanian majority was granted extensive autonomy within the Republic of Serbia.

42. Mr. ERMACORA (Austria) said that the full scale of the horror occurring in Bosnia and Herzegovina was clear from the many reports prepared by intergovernmental and non-governmental organizations and by national institutions, particularly those prepared by the Special Rapporteur of the Commission on Human Rights.

43. Austria had received a large number of refugees from Bosnia and Herzegovina and, in compliance with Security Council resolutions 771 (1992) and 780 (1992), calling upon all States to provide substantiated information in their possession on grave breaches of international humanitarian law, his Government was currently processing the detailed testimony given by a number of Muslim refugees liberated from Serb-controlled detention camps in northern Bosnia and Herzegovina, a testimony which provided shocking examples of the terrible crimes committed by the Serb military and paramilitary forces. In such a conflict, it was inevitable that victims and culprits could be found in all the sides involved but it did appear that the scale and gravity of the crimes committed by the Yugoslav National Army, Serb paramilitary groups and Serb police forces were the most serious and formed part of a systematic policy that was officially tolerated or even supported.

44. The systematic practice of ethnic cleansing was particularly repulsive and even appeared to be the main goal of the conflict. Both direct and indirect methods were employed for establishing ethnically pure areas. The direct methods included mass killings, forced deportations, torture, death threats and detention in inhuman conditions, while the indirect methods involved the destruction and confiscation of property, and various economic measures such as dismissal from employment of members of a certain ethnic group.

45. The conflict showed that principles formerly considered sacred in a civilized society were no longer honoured. Members of UNPROFOR had been the target of violence, hospitals were shelled, religious sites razed, valuable parts of the cultural heritage destroyed and vital infrastructures wiped out. The suffering of the civilian population surpassed description and all the fundamental principles of international humanitarian law were being utterly and cynically disregarded.

46. One particularly repulsive feature of the conflict was the massive prevalence of rape and sexual abuse, directed mainly against Muslim women. The full scale of the practice had been described in the report of the European Community mission to the former Yugoslavia.

47. The international community and the Commission in particular had repeatedly denounced the crimes against humanity committed in the former Yugoslavia and it was high time that action was taken to bring the perpetrators to justice. There was thus growing support for the establishment of an international tribunal to try suspected war criminals, a particularly important measure since there was little effective scope for doing so at the national level.

48. The question of establishing an international criminal court had been on the agenda of the General Assembly for more than 40 years and, although it supported the establishment of such a court, his delegation considered that action against the perpetrators of serious war crimes in the former Yugoslavia could not wait. It therefore strongly supported all proposals aimed at establishing an international ad hoc tribunal, such as that already made by the Conference on Security and Cooperation in Europe (CSCE). In view of the complexity of the project, it was urgent that agreement be reached in principle at the political level. Such a tribunal should be intended not to impose the right of the victor, but to try all those responsible regardless of origin, on the basis of generally accepted principles of international law.

49. For a tribunal of the kind proposed to function properly, it would have to be able to attribute responsibility for atrocities to individual perpetrators, and the compilation of large amounts of information was thus essential. The work being carried out by the Commission of Experts established under Security Council resolution 780 (1992) was therefore very important and all members of the international community should cooperate with it fully.

50. The Commission must also answer the question asked by the Special Rapporteur in his statement, namely, why it had not been possible to establish a proper basis for the human rights monitoring project he had proposed and which had been warmly welcomed by the General Assembly. It was most regrettable that international organizations were able only to record atrocities and human rights violations and the Commission must create more effective machinery to prevent such occurrences, protect minorities and allow emergency intervention in cases of gross human rights violations.

51. Ms. PARK (Canada) said that, in view of the large peace-keeping forces it had on the ground in the area, Canada attached great importance to seeing early and effective steps taken to bring an end to the conflict in the former Yugoslavia. Although constructive, the Vance-Owen peace plan was by no means perfect, and there might be scope for strengthening the proposals, especially with regard to human rights and war crimes. It was, however, incumbent upon critics of the plan to suggest alternatives. Enduring peace would derive only from a negotiated settlement which all groups regarded as equitable and as a basis for the future security of their basic rights. The ongoing peace talks in New York offered the best hope for achieving such a result, and her delegation was ready to contribute in every possible way to their success.

52. The human rights issue was an important dimension of the overall problem, and the measures adopted by the Commission were an important contribution to their solution. The Special Rapporteur's reports conveyed a picture of

unrelenting human tragedy. Violations of the most basic human rights continued unabated particularly, but by no means exclusively, in Bosnia and Herzegovina.

53. There was no more urgent issue for the Commission's attention than that of the sexual violence to thousands of women, particularly Muslim women, in Bosnia and Herzegovina. In December 1992, her Government had provided an initial $250,000 for UNHCR to assist the victims of those crimes and was reviewing with the humanitarian agencies concerned what else could be done. It appreciated the efforts of various parties, including the Special Rapporteur and the EC mission, to investigate the accounts of rape as a weapon of war. In view of the sheer magnitude and uniquely horrible nature of the problem, however, more needed to be done and an investigation devoted specifically to that matter should be carried out by a special rapporteur or team of experts.

54. While there was obviously an urgent need for the special debate in view of the Commission's responsibilities in the field of human rights, the role that the international community could play in alleviating that senseless suffering was less clear. Realism was needed about the Commission's role among the many agencies striving to assist the victims of the conflict.

55. The Commission must continue, through its Special Rapporteur, to examine the human rights situation throughout the former Yugoslavia. In close cooperation with other concerned institutions, it must investigate all credible reports of human rights violations and make its findings public on a continuing basis. Such actions were no solution, but it was essential to ensure that the international community had an authoritative foundation of facts for its actions.

56. Equally important was the Commission's contribution to ensuring that the perpetrators of those atrocities were brought to justice. The establishment of an international ad hoc tribunal to judge those responsible, which her delegation supported, was a delicate issue but the international community should take decisive action sooner rather than later. Such a tribunal would not only serve a deterrent notice on the responsible authorities on all sides of the conflict, but would also convince all parties that justice would eventually be done. An effective international response to those crimes offered the best hope that there would be no future repetition elsewhere.

57. With those considerations in mind, her delegation urged the Special Rapporteur to maintain and intensify his cooperation with the Commission of Experts. Her Government had announced the previous week its contribution to the first team of investigators that would allow the Commission of Experts to accelerate its work in amassing forensic evidence and testimony from witnesses.

58. In its endeavour to contribute to the overall international effort to address the tragic situation in the former Yugoslavia, the Commission must provide pragmatic direction to its Special Rapporteur, attaching special importance to effective cooperation among all the international agencies and

bodies seeking to alleviate the suffering. The Commission's response must have the broadest possible support as a signal of the international community's united resolve to deal with that appalling problem.

59. Mr. BAKHMINE (Russian Federation) said that the terrible tragedy currently unfolding in the territory of the former Yugoslavia dramatically demonstrated that violence could not but lead to more violence and could not serve as a means of settling conflicts. His Government and people were saddened and alarmed by the events in the former Yugoslavia, not only because of its geographic proximity but also because of their historical links and close ties of friendship with the area. In the search for a durable peace in the former Yugoslavia, the international community must play a major role, because no one State or group of States could resolve the dilemma on its own.

60. His delegation was thus pleased at the clarity and efficiency with which the Commission had reacted to the events: two special sessions had been convened, a Special Rapporteur had been appointed, and other important steps had been taken. The concrete, practical and focused measures adopted by consensus at the special sessions and the Special Rapporteur's missions and reports demonstrated the qualitatively new level of activity of the international community with regard to the defence of human rights and gave reason to hope that, through joint efforts, the bloodletting could be brought to an end.

61. The practice of ethnic cleansing was a repellent manifestation of the cruelty of the Yugoslav conflict. His delegation supported the resolution adopted by the General Assembly at its most recent session making it clear that those persons who had committed or had ordered others to commit acts of ethnic cleansing bore full individual responsibility and should be brought to justice. It welcomed the establishment of a Commission of Experts to investigate war crimes in the territory of the former Yugoslavia. It hoped that the Commission would make an objective assessment of the facts and that the guilty parties would be named on the basis of reliable and verified information. Close cooperation between the Commission of Experts and the Special Rapporteur would be most useful.

62. Another loathsome aspect of the Yugoslav war was the mass rape of women. Decisive and effective measures must be taken by the international community to put an end to that barbarous practice. His delegation welcomed the sending of two EC missions to investigate cases of rape. The vigorous work of those missions had alerted international public opinion to those heinous crimes. It was not clear, however, why the investigations had been limited to cases of rape committed against Muslim women, while disregarding cases where they involved Serb and Croat women: the facts showed that many Serb and Croat women had also been the victims of such monstrous acts. Crimes did not become less repulsive when they were committed against non-Muslims. Any investigation of the facts must have a comprehensive, rather than selective character and must concern all parties to the conflict.

63. A political solution, and not violence, was the only way out of the Yugoslav dilemma. His delegation was anxious that the Geneva talks should succeed, and it supported the territorial plan for Bosnia and Herzegovina proposed by its co-Chairmen. The plan was a reasonable alternative to

bloodshed, and Russian diplomacy was doing everything in its power to obtain Security Council approval of it. As for the Commission, it should focus its attention exclusively on human rights questions in the territory of the former Yugoslavia and not address problems that fell within the competence of other United Nations bodies, particularly the Security Council.

64. His delegation expressed its appreciation to the Special Rapporteur for his unflagging efforts, and it was convinced that his forthcoming report would be as objective and balanced as his oral statement. Partiality would not help resolve the Yugoslav dilemma; on the contrary, placing the blame solely on one side while avoiding criticism of the others would only exacerbate the conflict. That led to a situation in which some took the view that the international community should not take any steps, even positive and constructive ones, whereas others believed, on the contrary, that virtually any action would be justified. Such an approach often ran counter to the efforts of the international community, as the fighting in Krajina showed.

65. The delicate situation in the former Yugoslavia required the Commission to take its decisions with great care. A careless move might well exacerbate the situation. There was no doubt that the Special Rapporteur's mandate should be strengthened to help him gather objective information on all aspects of the Yugoslav conflict. In that context, his delegation supported the prompt implementation of all the paragraphs of the Commission and General Assembly resolutions that concerned the Special Rapporteur.

66. It was to be hoped that any new Commission resolution on the situation of human rights in the territory of the former Yugoslavia would build upon the measures contained in the resolutions of its first and second special sessions. A balanced and objective approach to all components of the situation was of the essence. Good will and a genuine search for ways to put an end to violations of humanitarian standards and human rights would enable a resolution to be adopted by consensus; the Commission's best contribution to achieving peace in the former Yugoslavia.

67. There had recently been assertions in the mass media and elsewhere that his Government was pursuing a pro-Serb policy. That was not so: its policy was not pro-Serb but it rejected anti-Serb positions. Artificial division of the parties to the conflict into a good side and a bad was unacceptable. It was unjust to focus attention on one party to the conflict, while ignoring the actions of the others, which were often no less cruel and unjustified. An entire people could not be accused of crimes. Those guilty were individuals, who must be punished.

68. Mr. HUSSAIN (Pakistan) said that the sufferings inflicted on the Bosnian Muslims by the Serb aggressors constituted a re-enactment of the Holocaust. Once again, Europe was the venue of barbarism, crimes and genocide committed against a people solely on the basis of its religion. There were two main differences, however. The crimes were being committed in full public view and the distinction between the perpetrators and victims was so evident that a number of international leaders had denounced the Serbian leadership as war criminals. The second important difference was the use of rape as a brutal

political weapon. According to the European Commission report, 20,000 women, mostly Muslims, had been raped by Serb soldiers, not only to humiliate them but also as part of the abhorrent practice of ethnic cleansing.

69. It was clear from the statistics available that the events in Bosnia amounted to a systematic campaign of extermination against an entire people on the grounds of its religion. In less than a year, 200,000 Muslims had been killed and over 1.5 million left homeless, including several hundred thousand who had been forced to flee the country leaving behind all their possessions. The situation had been fully documented by the Commission's Special Rapporteur in his report of 17 November 1992 (A/47/666), which stated that the Muslims were the principal victims of the conflict and that ethnic cleansing did not appear to be a consequence of the war, but rather its goal.

70. Sarajevo had been turned into a living hell, with people dying in the streets from hunger and exhaustion. Sacred sites and religious leaders were being attacked and constant shelling was terrorizing the population. Delivery of humanitarian aid was extremely difficult and, in the Special Rapporteur's opinion, only an immediate cease-fire could save the population of Sarajevo and other besieged cities from extermination.

71. A recent report by the United States State Department had documented further instances of Serbian war crimes against the Muslims of Bosnia, including a new category of violations of humanitarian law described as "impeding delivery of food and medical supplies to the civilian population".

72. Given what had happened and its full documentation, the response of the international community had been disappointing to say the least. The recent talks in Geneva had been a source of satisfaction to the Serbs who, under the proposed agreement, would have seen their aggression rewarded through acceptance of 50 per cent of the territorial gains they had made in Bosnia and Herzegovina. It was most depressing to see how Serbia had been allowed to get away with systematic and unprecedented savagery and criminality, that made a mockery of United Nations resolutions, the Charter and civilized standards of behaviour.

73. A further important consequence of the Bosnian conflict was its role in widening the chasm between the Muslim world and the countries of the West, whose talk of commitment to human rights had not been matched by practical actions. Their apathy and impotence in the face of Serb aggression was widely seen as reflecting the double standards applied in different cases, some aggressors being countered by military intervention and others being allowed to enjoy the fruits of their actions. It was to be hoped that the Bosnian Muslims were not being left to their fate simply on account of their religion or because of the spurious threat of so-called Islamic fundamentalism brandished by the Serbian leadership.

74. The Bosnian leadership had acted with tremendous restraint and shown willingness to go "the extra mile" to achieve peace with honour and to enable Bosnians to live in dignity and equality with the other communities and countries in the region.

75. His Government had not only condemned Serb aggression but had been one of the first to proclaim solidarity with the Republic of Bosnia and Herzegovina. Together with other Muslim countries, it had taken an unequivocal stance on the genocide there and he drew attention, in that connection, to the resolution adopted by the Conference of Islamic Foreign Ministers in December 1992.

76. That resolution urged the Security Council to take necessary measures against Serbia, including the use of force under Chapter VII, Article 42, of the United Nations Charter, with a view to ensuring its full compliance with the relevant resolutions and to counter and deter further acts of external aggression against the Republic of Bosnia and Herzegovina; it called for cooperation with the Republic of Bosnia and Herzegovina in exercising its inherent right of individual and collective self-defence under Chapter VII, Article 51, of the Charter, requesting the Security Council to state explicitly that the arms embargo against the former Yugoslavia did not apply to the Republic of Bosnia and Herzegovina and to allow the immediate delivery of defensive arms by members of the Organization of the Islamic Conference; and urged the United Nations to establish immediately an international war crimes tribunal to bring to justice those guilty of crimes against humanity.

77. He urged the Commission to uphold strongly human rights in Bosnia and Herzegovina to ensure that the grave crimes being committed there did not serve as a precedent for similar action in the future. Unless the Serb pogroms were stopped by the full weight of the international community and the application of United Nations resolutions, minority religious communities everywhere would justifiably fear that they might be next in line and that the international community would once again stand idly by.

78. Mr. BAUM (Germany) said that, although grave human rights violations had been committed by all sides in the conflict, there could be no doubt that the Serb side was responsible for the largest number of grave violations and that the Muslims were suffering the most. The findings of the Special Rapporteur and other reports made it clear that what was taking place in Bosnia and Herzegovina was the deliberate extinction of an ethnic group.

79. The most appalling and unprecedented aspect of the conflict was the systematic abuse of women with the intent of destroying the dignity and social existence of a whole community, through the use of mass rape as a means of ethnic cleansing. The report of the EC mission revealed not only the appalling number of such crimes but also the fact that they were not the excesses of individual Serb soldiers, but constituted a pattern of abuse designed to terrorize communities, drive them from their homes and demonstrate the power of the invading forces. The suffering of the women affected would be addressed in a resolution to be submitted by the States members of the European Community.

80. There was an urgent need for an international register of the crimes committed in the former Yugoslavia, which would record the circumstances of every single crime and the names of its individual perpetrators but such a register was not enough. The European Community supported the establishment of an international criminal court and some practical proposals might emerge from the high-level commissions established in France and Italy. In addition,

pressure must be brought to bear on the Serbian authorities to force them to take action against those responsible for atrocities, such as a recently elected member of Parliament accused of responsibility for the mass execution of 3,000 men, women and children. The process of ethnic cleansing must be reversed and his delegation supported the proposal for a register of all refugees and their places of origin, to enable justice to be done as soon as circumstances allowed.

81. Another subject of particular concern was the sheer number and plight of the refugees. His country had received half the total number who had fled their homeland but, like the rest of Western Europe, it was not immune from a relapse into intolerance and chauvinism. There had recently been an alarming increase in violence by radical right-wing elements against refugees and other foreigners. The authorities were doing everything in their power to combat such crimes and millions of citizens had taken to the streets to show that the overwhelming majority of Germans utterly condemned such attacks.

82. With regard to the explosive situation in Kosovo, his Government called on the Belgrade regime to re-establish the autonomy of the province, permit the use of the Albanian language in the education system, information media and television and reinstate the journalists who had been dismissed. There was much evidence that the Serbian authorities were indulging in a policy of deliberate provocation in Kosovo, and his delegation commended the Albanian people on their patience and restraint.

83. The peace plan proposed by Mr. Vance and Lord Owen offered the best solution to the conflict. His delegation hoped that the involvement of the Security Council would help to implement that plan. The continuing peace efforts must ensure the physical and political survival of the seriously threatened Bosnian Muslims by ending the practice of ethnic cleansing, lifting the sieges of towns and cities, closing the camps, allowing aid to reach those in need and making the Serb forces withdraw.

84. Mr. BIJEDIC (Observer for Bosnia and Herzegovina) said that the situation in his country was complex and was deteriorating daily with respect to both human rights and all other respects. Serbo-Montenegran aggression was continuing, with its concomitant destruction, killing of civilians, ethnic cleansing, organized and deliberate raped, attacks on United Nations units, particularly humanitarian convoys, obliging the non-Serb population to fight against their own nationals, and forced labour. In addition, there were more than 100 concentration camps not only in Bosnia and Herzegovina but also in Serbia and Montenegro.

85. There was no shortage of evidence concerning the death strategy, but certain key countries still held the surprising and disappointing view that what was taking place in his country was a civil war. Such an approach concealed the truth and had a direct effect on the Commission's work. At its last special session, the Commission had found it difficult to define aggression and genocide clearly and, consequently, to establish the need for a human rights court and to invoke Chapter VII of the Charter to prevent mass human rights violations.

86. The Commission's work had had no influence on the Geneva peace process, which had taken a real politik approach, ignoring not only the relevant Security Council resolutions but also the decisions of the London Conference. Aggressors and victims had been placed on the same level in the negotiation process, thus implying amnesty for those who had committed crimes against humanity and humanitarian laws. It was true that there had been expressions of horror and condemnation concerning the crimes of ethnic cleansing, rape and genocide, but there had been an utter discrepancy between words and deeds.

87. Many people had concluded that the international community, particularly Europe, was incapable of dealing with the worst criminals in the Balkans, since the Bosnian people had been left to bleed for so long without the provision of substantial help. The ineffectiveness of the United Nations in Bosnia and Herzegovina meant that people were being deprived of almost all their rights. Nothing in his country was sacred to the aggressor, who was destroying everything there. All that was taking place in the presence of the United Nations. Many of the worst crimes had been made known to the United Nations but had not been reported.

89. Having failed to address the crisis in Bosnia and Herzegovina in a timely and appropriate manner, the international community, had found itself constrained to deal with the leaders of illegal armed factions. By so doing, the two co-Chairmen had been obliged to recognize the aggressor as having the status of a negotiating party. Consequently, two armed factions had been treated as representatives of their peoples - which they were not - while the delegation of the State of Bosnia and Herzegovina, composed of legally elected representatives, was degraded to the status of leaders of a single ethnic group. In that way, the multi-ethnic and multicultural essence of Bosnia and Herzegovina, based on centuries of coexistence, had been undermined and large segments of its society neglected. Thus, numerous human rights had been ignored by the Geneva Conference.

89. The results of the Vance-Owen peace plan, established on faulty premises, had a direct bearing on the Commission's work. First of all, he wondered what would be done about those persons who had already the status of legal representatives of a nation but who had been named as war criminals. According to the plan, all warring factions were to withdraw to their provinces. Apparently that meant that persons who had engaged in ethnic cleansing and had tortured and killed hundreds of innocent people would be protected in their sub-States, a cynical acceptance of ethnic cleansing and its accompanying crimes. If that came about it was unclear what the Commission could do and how well-founded accusations of human rights violations would be followed up.

90. That was the inevitable result of applying ethnic criteria in delimiting provincial borders and of accepting the aspirations of the aggressors to the detriment of the largest national group. The aggressors would control nearly half of the territory of the Republic, although their ethnic group was less than a third of the population. The worst effect of such an approach was that it rewarded aggression and promoted the policy of fait accompli and use of force to the level of a legitimate factor in international relations. He

therefore appealed, on behalf of his suffering people, to the Commission to approach the problem of mass human rights violations in an appropriate manner and to adopt concrete decisions.

91. The Right Reverend Monsignor TABET (Observer for the Holy See) said that, as the Special Rapporteur had reminded the Commission, serious violations of human rights were still occurring in the former Yugoslavia and included such horrible practices as murder, mass expulsions and multiple and systematic rape. The reason why those crimes continued to be committed had already been amply identified and reported. Unfortunately, the policy of large-scale ethnic cleansing was still being carried out with impunity. Those responsible were encouraged by the fact that they were achieving their aim of facing the international community with a fait accompli, but that community could not just accept the proposition that might was right and endorse a situation involving flagrant violations of the most sacred human rights. If it did so, it ran the risk of losing all credibility by tolerating non-respect for humanitarian law and ignoring the sufferings of so many innocent people.

92. In January 1993, His Holiness the Pope had called upon the international community to demonstrate more clearly its political will not to accept aggression and territorial conquest by force or the aberration of ethnic cleansing. That call had been motivated by the following reasons: a war of aggression was unworthy of a human being; the moral and physical destruction of an adversary or a foreigner was a crime; practical indifference in the face of such acts was guilt through omission; and, lastly, anyone who carried out such brutal acts, or justified them would have to answer not only to the international community but also to God.

93. The Holy See therefore encouraged the Commission to continue its efforts to make world opinion more aware of what was taking place and to urge all those in a position to do so to act to stop the guilty parties and help the victims. In its view, the international community had the right to bring to trial and to sentence those found personally responsible for such crimes against humanity, the defence of human rights and rendering humanitarian assistance being its prime duty.

94. In particular, it was essential to continue to work for the release of the prisoners, some of whom had been held for long months in disgraceful conditions, while others had been recently arrested. It was also important to help the millions of displaced persons who had fled from the fighting and from ethnic cleansing, especially those who were within the Bosnian borders and subjected to the whims of the militias of either camp. Having been chased from their homes without being able to escape from the country, their living conditions were often unimaginable. They were entitled to expect not only immediate assistance but also safe havens where they could be provisionally settled under international protection. Such people should not be abandoned and left to depend on the good will of the belligerents. The international community must acquire the means to carry out that effective humanitarian assistance so as to provide genuine protection for entire populations who were held hostage and whose lives and integrity were threatened. Since the purpose of such action was to ensure respect for human rights, when they had clearly been violated, it could not be regarded as a subject for negotiation.

95. As for the ongoing negotiations to find just solutions for all those involved in the conflict, all such negotiations must be conducted in a spirit of openness and dialogue guided by the principles of justice which alone would make it possible to achieve peace. Sacrifices would be required of all, but a solution would be effective and lasting only if it was freely accepted and shared by all the parties involved.

96. It was important that those nations which gave priority to the rights of the human person should regain their credibility in that stricken land. They must demonstrate their determination to ensure respect for the law and to ease the sufferings of the innocent. Without firm action in that field, they might prove incapable of creating the confidence required for a negotiated solution to the conflict.

97. Mr. Garreton (Chile) took the Chair.

98. Mr. SOTTAS (World Organization Against Torture) said that, since the second special session of the Commission in November/December 1992, further information had been received on the human rights situation in the former Yugoslavia. In particular, it had been revealed that rape was not a secondary result of the conflict but part and parcel of a systematic practice of humiliation committed, mainly by the Serbs, with the deliberate aim of demoralizing and terrorizing communities and driving them from their homes. Between 20,000 and 50,000 women and young girls had been the victims of collective rape. The atrocity of that practice, and the policy underlying it had already given rise to severe condemnation by the international community.

99. He recalled the resolution adopted by the Commission, at its second special session, which clearly stated that the policy of terror was carried out by Serbia which, after having waged a war violating all the rules of international law against Croatia, had attacked Bosnia and Herzegovina, where it had resumed its policy of eliminating minorities through ethnic cleansing, and demanded that those guilty of war crimes, crimes against humanity and other serious violations of international humanitarian law should be identified and brought to justice. Nevertheless, the International Conference's proposals endorsed the new situation of community separation to a greater extent than it protected the rights of all persons, including those belonging to minority communities.

100. The division of Bosnia into 10 provinces could not result in a stable solution but actually encouraged communities to secure a maximum position by force. Moreover, any solution that placed executioners and victims on an equal footing was not only ethically condemnable but also politically suicidal. Peace could be restored only by creating conditions for the various ethnic groups to live together and that could be achieved only if the international community offered serious guarantees to threatened minorities and adopted measures to punish those guilty of human rights violations. That implied the establishment of an international court to try those accused of such crimes.

101. It was widely feared also that, once the Serbs had established their authority over Bosnia, they would invade Kosovo and Yugoslav Macedonia with a

view to pursuing their policy of ethnic cleansing. Hence the proposal that Kosovo be placed under the control of the United Nations or NATO so as to prevent the outbreak of a generalized war in the Balkans.

Statement by the representative of Sudan

102. Mr. YOUSIF (Sudan), speaking in exercise of the right of reply, said that his delegation categorically refuted the misrepresentations contained in the statement made at the previous meeting by the Minister of State for Foreign and Commonwealth Affairs of the United Kingdom. Similar misrepresentations had been unfairly used as a basis for a politically motivated resolution adopted against the Sudan by the General Assembly at its forty-seventh session. They had nothing to do with the actual reality of the human rights situation in his country.

103. The statement had also contained generalizations that were tantamount to a total disregard of any positive achievements resulting from the efforts of the Government and people of the Sudan to overcome the challenges of human and economic development.

104. Its religious confrontational tones could not but have a negative effect on efforts to establish peace, religious harmony and respect for all fundamental human rights in the country. It would seem that the Minister had been influenced by a report by the "Jubilee Campaign", a Christian fundamentalist group making false allegations against a number of Muslim countries. The forthcoming visit by His Holiness, Pope John Paul II, to the Sudan was, however, a clear demonstration of his country's great traditions of harmony and religious tolerance.

105. As for the alleged violations of human rights in the Sudan, most of the allegations had proved to be exaggerated. However, his Government had seriously addressed all such violations and dealt with the few incidents relating to excesses or abuses by certain individuals. He pointed out in that connection that there were no longer any political detainees in the country, that any detention was subject to judicial review and supervision; and that independent judicial investigations were currently taking place to examine any incidents of abuse of power.

The meeting rose at 6.20 p.m.